

JUDGE DAVID GUADERRAMA

IN THE UNITED STATES DISTRICT COURT

FILED

WESTERN DISTRICT OF TEXAS

2015 APR -1 PM 4:19

EL PASO DIVISION

CLERK OF DISTRICT COURT  
WESTERN DISTRICT OF TEXAS

BY                       
DEPUTY

JORGE GUZMAN,

Plaintiff,

v.

MARCELO MORA, VICTOR PEREZ and  
VRP TRANSPORTATION, INC.,

Defendants.

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§  
§

**EP 15 CV 0097**

Cause No.                                     

**DEFENDANTS' NOTICE OF REMOVAL**

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

**COME NOW** MARCELO MORA, VICTOR PEREZ and VRP TRANSPORTATION, INC., the Defendants herein, and pursuant to 28 U.S.C. §§ 1441 and 1446, jointly, timely and properly file this, their Notice of Removal of the civil action described herein below from the County Court at Law Number Five of El Paso County, Texas (Cause No. 2014-DCV2379), to this Honorable United States District Court for the Western District of Texas, El Paso Division. Defendants set forth the following grounds for removal based upon this Honorable Court's diversity of citizenship jurisdiction over this civil action between citizens of different States pursuant to 28 U.S.C. § 1332(a)(1).

**I. Procedural Background/History**

1. These parties were named as Defendants in the case styled *Jorge Guzman v. Marcelo Mora, Victor Perez and VRP Transportation, Inc.*; Cause No. 2014-DCV2379, filed on July 29, 2014, currently pending in the County Court at Law No. 5 of El Paso County, Texas (hereinafter "The

State Court Action”). In his pleadings, Plaintiff generally alleges negligence and negligence *per se* claims arising out of an automobile accident which occurred on or about August 1, 2012.

2. A true and correct copy of the “Plaintiffs’ Original Petition” filed in the State Court Action is included among the pleadings and all other documents filed in the underlying State Court Action that are attached hereto as “Exhibit A,” and is incorporated by reference the same as if fully set forth at length herein. Defendant Marcelo Mora has not been served. Defendant Victor Perez was served with Plaintiffs’ Original Petition and citation on March 2, 2015. Defendant VRP Transportation, Inc. was served with Plaintiffs’ Original Petition and citation on March 2, 2015. Therefore, this Notice of Removal is timely and properly filed within the thirty (30) day period for the filing of a Notice of Removal, and within one year of commencement of the suit, pursuant to 28 U.S.C. § 1446(b).

3. Pursuant to 28 U.S.C. §§1446(a), attached to this Notice of Removal as “Exhibit A” and incorporated by reference the same as if fully set forth at length herein, are true and correct copies of all pleadings, processes, citations, orders and other filings in the State Court Action that were indexed in the El Paso County District Clerk’s Official File for this suit as well as a copy of the Civil Docket Sheet maintained in the State Court Action, as of the date this Notice of Removal is being filed.

4. Venue is proper in this United States District Court for the Western District of Texas - El Paso Division under 28 U.S.C. §§1441(a) and 1446(a) because the State Court where the underlying State Court Action has been pending is located here in El Paso County, Texas, within this District and Division. The United States District Court for the Western District of Texas, El Paso Division is the District Court and Division for the District that includes El Paso County, Texas, where the State Court Action is currently pending. See 28 U.S.C. § 124(d)(3).

5. Pursuant to 28 U.S.C. § 1446(d), Defendants, concurrently with the filing of this Notice of Removal, have given written notice of the filing of this Notice of Removal to all parties of record and have also promptly filed, under separate cover, a copy of said written notice with the Clerk of the County Court at Law Number Five of El Paso County, Texas in the State Court Action (Cause no. 2014-DCV2379).

6. Defendants expressly reserve the right to raise all defenses and objections to Plaintiff's claims and causes of action asserted herein and to otherwise plead further after this action is removed to the above United States District Court, such as Defendant VRP Transportation, Inc.'s objection and defense that it is not a proper party in this case and has been improperly joined herein and such as Defendant Victor Perez's objection and defense that he is not a proper party in this case and has been improperly joined herein.

## **II. Federal Court Amount in Controversy is Met**

7. The claimed amount of damages in controversy as alleged by Plaintiff in his Original Petition (on page 2) in this action, exceeds \$200,000.00, which exceeds the minimum diversity of citizenship jurisdictional requirement of a United States District Court. 28 U.S.C. § 1332(a)(1). (Exhibit A).

## **III. Absent Plaintiff's Improper Joinder of Defendant VRP Transportation, Inc.,**

### **Complete Diversity of Citizenship Exists**

8. Defendants show that this Honorable Court has diversity jurisdiction over the above-entitled action pursuant to 28 U.S.C. § 1332(a)(1) and the action may be properly removed to this Court pursuant to 28 U.S.C. §§ 1441(a)&(b) and 1446. As alleged by Plaintiff in his Original Petition in this action, Plaintiff is a citizen and resident of the State of Texas. Defendant Marcelo Mora was, and still is a citizen of the Republic of Mexico. Defendant Victor Perez was, and still

is a citizen of Mexico. Defendant VRP Transportation, Inc. is a Texas Corporation with its principal place of business in Texas.

9. Plaintiff improperly joined Defendant VRP Transportation, Inc., asserting that it was negligent in operating the motor vehicle involved in the accident on August 1, 2012. VRP Transportation, Inc. was not operating the motor vehicle, did not own the motor vehicle, and had no employer/employee relationship with the driver of the vehicle. The Court should disregard a non-diverse or local defendant when the plaintiff has no possibility of establishing a cause of action against the non-diverse or local defendant under applicable state law. *See Salazar v. Allstate Tex. Lloyd's, Inc.*, 455 F.3d 571, 574 (5th Cir. 2006).; *Larroquette v. Cardinal Health 200, Inc.*, 466 F.3d 373, 376 (5th Cir. 2006). A determination of improper joinder must be based on an analysis of the causes of action alleged in the complaint at the time of the removal. *Cavallini v. State Farm Mut. Auto Ins. Co.*, 44 F.3d 256, 264 (5th Cir. 1995).

10. In this regard, Defendant VRP Transportation, Inc. shows that it is not a proper party in this case and that, as a matter of law, it is not liable and cannot be held liable in the capacity in which it is being sued. Defendant VRP Transportation, Inc. has been improperly joined in this case as it neither owed nor breached any duty of care to the Plaintiff. Defendant VRP Transportation, Inc. affirmatively denies that it owned, operated, or employed the operator of the vehicle involved in the subject accident. Defendant VRP Transportation, Inc. affirmatively denies that it is liable to the Plaintiff.

11. Accordingly, because there is no possibility that Plaintiff can recover against Defendant VRP Transportation, Inc., Defendant VRP Transportation, Inc. is improperly joined and should be dismissed in this case, as a matter of law.

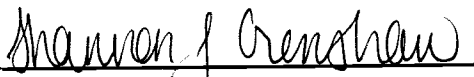

12. Accordingly and for the foregoing reasons, evidence and authority, removal of this action is proper pursuant to 28 U.S.C. § 1441(a).

13. Plaintiff made a jury demand in his Original Petition filed in the State Court Action. (Exhibit A, p. 8 of Plaintiffs' Original Petition).

WHEREFORE, PREMISES CONSIDERED, Defendants MARCELO MORA, VICTOR PEREZ, and VRP TRANSPORTATION, INC. pray that this Honorable United States District Court accept this Notice of Removal for filing in accordance with the provisions of 28 U.S.C. § 1332, 1441 and 1446, et. seq., dismiss Defendant VRP Transportation, Inc. from this action, order that the above-styled and numbered cause be removed from the County Court at Law Number Five of El Paso County, Texas, to this Honorable United States District Court for the Western District of Texas in the El Paso Division, and that this action hereafter proceed in this Honorable United States District Court as an action properly removed thereto, and grant any and all other relief to which Defendants may be justly entitled.

Respectfully submitted,

**MOUNCE, GREEN, MYERS,  
SAFI, PAXSON & GALATZAN, P.C.**  
P. O. Drawer 1977  
El Paso, Texas 79950-1977  
Phone: (915) 532-2000  
Telefax: (915) 541-1597  
E-Mail: [vereen@mgmsg.com](mailto:vereen@mgmsg.com)

By:   
 **Darryl S. Vereen**  
State Bar ID No. 00785148

Attorneys for Defendants

**CERTIFICATE OF SERVICE**

I, **Darryl S. Vereen**, hereby certify that on the \_\_\_\_ day of April, 2015, a true and correct copy of the foregoing document was served via email on the following parties or attorney(s): R. Kent Livesay, Esq., [rpena@livesaylawfirm.com](mailto:rpena@livesaylawfirm.com), 5319 South McColl Road, Edinburg, Texas, 78539.

  
by **Darryl S. Vereen**

Skip to Main Content Logout My Account Search Menu New Civil Search Refine Search Back

Location : All Courts Help

**REGISTER OF ACTIONS****CASE No. 2014DCV2379****Jorge Guzman VS Marcelo Mora,Victor Perez,VRP Transporation Inc.**§  
§  
§  
§  
§Case Type: **Injury or Damage - Motor Vehicle**  
Date Filed: **07/29/2014**  
Location: **County Court at Law 5****PARTY INFORMATION****Defendant Mora, Marcelo****Lead Attorneys**  
**DARRYL S VEREEN**  
*Retained*  
915-532-2000(W)**Defendant Perez, Victor****DARRYL S VEREEN**  
*Retained*  
915-532-2000(W)**Defendant VRP Transporation Inc.****DARRYL S VEREEN**  
*Retained*  
915-532-2000(W)**Plaintiff Guzman, Jorge****R KENT LIVESAY**  
*Retained*  
956-686-5776(W)**EVENTS & ORDERS OF THE COURT****OTHER EVENTS AND HEARINGS**07/29/2014 **Original Petition (OCA)** Doc ID# 107/29/2014 **E-File Event Original Filing**08/05/2014 **Citation**Mora, Marcelo  
Perez, Victor

Unservd Response Received 03/18/2015

Served 03/02/2015

Response Received 03/20/2015

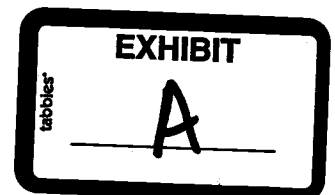
Returned 03/04/2015

Served 03/02/2015

Response Received 03/20/2015

Returned 03/04/2015

VRP Transporation Inc.

11/18/2014 **Motion for Substitute Service** Doc ID# 202/04/2015 **Order for Substitute Service** Doc ID# 502/06/2015 **Motion for Substitute Service** Doc ID# 302/06/2015 **Amended Motion** Doc ID# 402/11/2015 **Order for Substitute Service** Doc ID# 603/18/2015 **Certificate of Written Discovery** Doc ID# 803/18/2015 **Answer** Doc ID# 903/20/2015 **Answer** Doc ID# 1203/20/2015 **Answer** Doc ID# 13

CAUSE NO. \_\_\_\_\_

JORGE GUZMAN,  
Plaintiff§  
§  
§  
§  
§  
§  
§

IN THE DISTRICT COURT

vs.

\_\_\_\_\_ DISTRICT COURT

MARCELO MORA, VICTOR PEREZ AND  
VRP TRANSPORTATION, INC.,  
Defendants

EL PASO COUNTY, TEXAS

**PLAINTIFF'S ORIGINAL PETITION****TO THE HONORABLE JUDGE OF SAID COURT:**

Now Comes, **JORGE GUZMAN**, hereinafter referred to as ("*Plaintiff*"), complaining of and about **MARCELO MORA, VICTOR PEREZ AND VRP TRANSPORTATION INC.,** hereinafter collectively referred to as ("*Defendants*"), and for cause of action shows unto the Court the following:

**DISCOVERY CONTROL PLAN LEVEL**

1. Plaintiff intends that discovery be conducted under Discovery Level 2.

**PARTIES AND SERVICE**

2. Plaintiff, Jorge Guzman, is an Individual who resides in El Paso, Texas 79905.
3. The last three numbers of Jorge Guzman's driver's license number are 564.
4. Defendant, Marcelo Mora, an Individual who is a resident of Texas, may be served with process at his place of employment at the following address: 1033 Humble Place Suite 204, El Paso Texas 79915-1028. Service of said Defendant as described above can be effected by personal delivery.
5. Defendant, Victor Perez, an Individual who is a resident of Texas, may be served with process at his place of employment at the following address: 1033 Humble Place, Suite 204, El Paso, Texas 79915-1028. Service of said Defendant as described above can be effected by personal delivery.



6. Defendant, VRP Transportation Inc., may be served with process by serving its Registered Agent: Julia Portman, at 1033 Humble, Suite 204, El Paso, Texas 79915-1028. Service of said Defendant as described above can be effected by personal delivery.

### **JURISDICTION AND VENUE**

7. The subject matter in controversy is within the jurisdictional limits of this court.
8. Plaintiff seeks:
  - a. monetary relief over \$200,000 but not more than \$1,000,000.
9. This court has jurisdiction over the parties because Defendants are Texas residents.
10. Venue in El Paso County is proper in this cause.

### **FACTS**

11. On or about August 1, 2012, Plaintiff, **JORGE GUZMAN**, was driving on South on the 3600 Block of Pasiano in lane number 4. Defendant, **MARCELO MORA**, was also driving South bound on the 3600 Block of Pasiano in lane number 3. Suddenly and without warning, Defendant, **MARCELO MORA**, changed lanes and violently collided with the vehicle driven by Plaintiff, **JORGE GUZMAN**. Defendant, **MARCELO MORA**, failed to keep a proper lookout and give one-half of the roadway. Thus, Defendant, **MARCELO MORA**, negligently stuck Plaintiff's vehicle causing the collision in question.

### **PLAINTIFF'S CLAIM OF NEGLIGENCE AGAINST MARCELO MORA**

12. Defendant, Marcelo Mora, had a duty to exercise the degree of care that a reasonably careful person would use to avoid harm to others under circumstances similar to those described herein.
13. Plaintiff's injuries were proximately caused by Defendant, Marcelo Mora's negligent, careless and reckless disregard of said duty.

14. The negligent, careless and reckless disregard of duty of Defendant, Marcelo Mora, consisted of, but is not limited to, the following acts and omissions:

- A. In that Defendant, Marcelo Mora, failed to keep a proper lookout for Plaintiff's safety that would have been maintained by a person of ordinary prudence under the same or similar circumstances;
- B. In that Defendant, Marcelo Mora, operated his vehicle in Plaintiff's lane of traffic and failed to give Plaintiff at least one-half of the roadway; and
- C. In that Defendant, Marcelo Mora, failed to keep such distance away from Plaintiff's motor vehicle as a person using ordinary prudent care would have done.

**PLAINTIFF'S CLAIM OF NEGLIGENCE PER SE AGAINST MARCELO MORA**

15. Defendant, Marcelo Mora's conduct described herein constitutes an unexcused breach of duty imposed by § 545.053 of the Texas Transportation Code.

16. **§ 545.053. PASSING TO THE LEFT; RETURN; BEING PASSED.**

- (a) An operator passing another vehicle: (1) shall pass to the left of the other vehicle at a safe distance; and (2) may not move back to the right side of the roadway until safely clear of the passed vehicle.
- (b) An operator being passed by another vehicle: (1) shall, on audible signal, move or remain to the right in favor of the passing vehicle; and (2) may not accelerate until completely passed by the passing vehicle. © Subsection (b) does not apply when passing to the right is permitted.

17. Plaintiff is member of the class that § 545.053 was designed to protect.

18. Defendant, Marcelo Mora's unexcused breach of the duty imposed by § 545.053 proximately caused the Plaintiff's injuries described herein.

**PLAINTIFF'S CLAIM OF NEGLIGENCE AGAINST VICTOR PEREZ**

19. Defendant, Victor Perez, had a duty to exercise the degree of care that a reasonably careful person would use to avoid harm to others under circumstances similar to those described herein.

20. Plaintiff's injuries were proximately caused by Defendant, Victor Perez's negligent, careless and reckless disregard of said duty.

21. The negligent, careless and reckless disregard of duty of Defendant, Victor Perez, consisted of, but is not limited to, the following acts and omissions:

- A. In that Defendant, Victor Perez, failed to keep a proper lookout for Plaintiff's safety that would have been maintained by a person of ordinary prudence under the same or similar circumstances;
- B. In that Defendant, Victor Perez, operated his vehicle in Plaintiff's lane of traffic and failed to give Plaintiff at least one-half of the roadway; and
- C. In that Defendant, Victor Perez, failed to keep such distance away from Plaintiff's motor vehicle as a person using ordinary prudent care would have done.

**PLAINTIFF'S CLAIM OF NEGLIGENCE PER SE AGAINST VICTOR PEREZ**

22. Defendant, Victor Perez's conduct described herein constitutes an unexcused breach of duty imposed by § 545.053 of the Texas Transportation Code.

23. **§ 545.053. PASSING TO THE LEFT; RETURN; BEING PASSED.**

- (a) An operator passing another vehicle: (1) shall pass to the left of the other vehicle at a safe distance; and (2) may not move back to the right side of the roadway until safely clear of the passed vehicle.
- (b) An operator being passed by another vehicle: (1) shall, on audible signal, move or remain to the right in favor of the passing vehicle; and (2) may not accelerate until completely passed by the passing vehicle. © Subsection (b) does not apply when passing to the right is permitted.

24. Plaintiff is member of the class that §545.053 was designed to protect.

25. Defendant, Victor Perez's unexcused breach of the duty imposed by §545.053 proximately caused the Plaintiff's injuries described herein.

**PLAINTIFF'S CLAIM OF RESPONDEAT SUPERIOR AGAINST VICTOR PEREZ**

26. At the time of the occurrence of the act in question and immediately prior thereto, Marcelo Mora, was within the course and scope of employment for Defendant, Victor Perez,.

27. At the time of the occurrence of the act in question and immediately prior thereto, Marcelo Mora, was engaged in the furtherance of Defendant, Victor Perez's business.

28. At the time of the occurrence of the act in question and immediately prior thereto, Marcelo Mora, was engaged in accomplishing a task for which Defendant, Marcelo Mora, was employed.

29. Plaintiff invokes the doctrine of Respondeat Superior as against Defendant, Victor Perez,.

**PLAINTIFF'S CLAIM OF NEGLIGENT ENTRUSTMENT AGAINST VICTOR PEREZ**

30. On August 1, 2012, Defendant, Victor Perez, was the owner of the 1999 Freightliner tractor operated by Defendant, Marcelo Mora.

31. Defendant, Victor Perez, entrusted the vehicle to Defendant, Marcelo Mora, a reckless and incompetent driver.

32. Defendant, Victor Perez, knew, or through the exercise of reasonable care should have known, that Defendant, Marcelo Mora, was a reckless and incompetent driver.

33. As described herein, Defendant, Marcelo Mora, was negligent on the occasion in question.

34. Defendant, Marcelo Mora's negligence was the proximate cause of Plaintiff, Jorge Guzman's damages.

**PLAINTIFF'S CLAIM OF NEGLIGENCE AGAINST VRP TRANSPORTATION INC.**

35. Defendant, VRP Transportation Inc., had a duty to exercise the degree of care that a reasonably careful person would use to avoid harm to others under circumstances similar to those described herein.

36. Plaintiff's injuries were proximately caused by Defendant, VRP Transportation, Inc.'s negligent, careless and reckless disregard of said duty.

37. The negligent, careless and reckless disregard of duty of Defendant, VRP Transportation Inc., consisted of, but is not limited to, the following acts and omissions:

- A. In that Defendant, VRP Transportation Inc., failed to keep a proper lookout for Plaintiff's safety that would have been maintained by a person of ordinary prudence under the same or similar circumstances;
- B. In that Defendant, VRP Transportation Inc., operated its vehicle in Plaintiff's lane of traffic and failed to give Plaintiff at least one-half of the roadway; and

- C. In that Defendant, VRP Transportation Inc., failed to keep such distance away from Plaintiff's motor vehicle as a person using ordinary prudent care would have done.

**PLAINTIFF'S CLAIM OF NEGLIGENCE PER SE AGAINST  
VRP TRANSPORTATION INC.**

38. Defendant, VRP Transportation, Inc.'s conduct described herein constitutes an unexcused breach of duty imposed by § 545.053 of the Texas Transportation Code.

39. **§ 545.053. PASSING TO THE LEFT; RETURN; BEING PASSED.**

- (a) An operator passing another vehicle: (1) shall pass to the left of the other vehicle at a safe distance; and (2) may not move back to the right side of the roadway until safely clear of the passed vehicle.
- (b) An operator being passed by another vehicle: (1) shall, on audible signal, move or remain to the right in favor of the passing vehicle; and (2) may not accelerate until completely passed by the passing vehicle. © Subsection (b) does not apply when passing to the right is permitted.

40. Plaintiff is member of the class that § 545.053 was designed to protect.

41. Defendant VRP Transportation, Inc.,'s unexcused breach of the duty imposed by § 545.053 proximately caused the Plaintiff's injuries described herein.

**PLAINTIFF'S CLAIM OF RESPONDEAT SUPERIOR AGAINST  
VRP TRANSPORTATION INC.**

42. At the time of the occurrence of the act in question and immediately prior thereto, Defendant, Marcelo Mora, was within the course and scope of employment for Defendant VRP Transportation Inc.

43. At the time of the occurrence of the act in question and immediately prior thereto, Defendant, Marcelo Mora, was engaged in the furtherance of Defendant, VRP Transportation Inc.'s business.

44. At the time of the occurrence of the act in question and immediately prior thereto, Defendant, Marcelo Mora was engaged in accomplishing a task for which Defendant, Marcelo Mora, was employed.

45. Plaintiff, Jorge Guzman, invokes the doctrine of Respondeat Superior as against Defendant, VRP Transportation Inc.

**PLAINTIFF'S CLAIM OF NEGLIGENT ENTRUSTMENT AGAINST  
VRP TRANSPORTATION INC.**

46. On August 1, 2012, Defendant, VRP Transportation Inc., was the owner of the 1996 Fruehauf trailer operated by Defendant, Marcelo Mora.
47. Defendant, VRP Transportation Inc., entrusted the vehicle to Defendant, Marcelo Mora, a reckless and incompetent driver.
48. Defendant, VRP Transportation Inc., knew, or through the exercise of reasonable care should have known, that Defendant, Marcelo Mora, was a reckless and incompetent driver.
49. As described herein, Defendant, Marcelo Mora, was negligent on the occasion in question.
50. Marcelo Mora's negligence was the proximate cause of Plaintiff, Jorge Guzman's damages.

**DAMAGES FOR PLAINTIFF, JORGE GUZMAN**

51. As a direct and proximate result of the occurrence made the basis of this lawsuit, Plaintiff, Jorge Guzman, was caused to suffer physical injuries, and to incur the following damages:
- A. Reasonable medical care and expenses in the past. These expenses were incurred by Plaintiff, Jorge Guzman, for the necessary care and treatment of the injuries resulting from the accident complained of herein and such charges are reasonable and were usual and customary charges for such services in El Paso County, Texas;
  - B. Reasonable and necessary medical care and expenses which will in all reasonable probability be incurred in the future;
  - C. Physical pain and suffering in the past;
  - D. Physical pain and suffering in the future;
  - E. Mental anguish in the past; and
  - F. Mental anguish in the future.

**PRAYER**

**WHEREFORE, PREMISES CONSIDERED**, Plaintiff, **JORGE GUZMAN**, respectfully prays that the Defendants, **MARCELO MORA, VICTOR PEREZ AND VRP TRANSPORTATION INC.**, be cited to appear and answer herein, and that upon a final hearing of the cause, judgment be entered for the Plaintiff against Defendants, jointly and severally, for damages in an amount within the jurisdictional limits of the Court; together with pre-judgment interest (from the date of injury through the date of judgment) at the maximum rate allowed by law; post-judgment interest at the legal rate, costs of court; and such other and further relief to which the Plaintiff may be entitled at law or in equity.

**PLAINTIFF HEREBY DEMANDS TRIAL BY JURY**

Respectfully submitted,

**LAW OFFICES OF R. KENT LIVESAY, P.C.**

5319 South McColl Road

Edinburg, Texas 78539

(956) 686-5776 Telephone

(956) 686-0050 Telecopier

By: /s/ R. Kent Livesay

R. Kent Livesay

Texas State Bar No. 00790057

**ATTORNEY FOR PLAINTIFF**



## THE STATE OF TEXAS

NOTICE TO DEFENDANT: "You have been sued. You may employ an attorney. If you, or your attorney, do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you."

TO: **VICTOR PEREZ**, who may be served with process at his place of employment at **1033 Humble Place, Suite 204, El Paso, TX 79915-1028 or wherever he/she may be found**

Greetings:

You are hereby commanded to appear by filing a written answer to the Plaintiff's Original Petition at or before ten o'clock A.M. of the Monday next after the expiration of twenty days after the date of service of this citation before the Honorable **County Court at Law Number 5**, El Paso County, Texas, at the Court House of said County in El Paso, Texas.

Said Plaintiff's Original Petition was filed in said court on this the 29<sup>th</sup> day of July, 2014, by Attorney at Law, **R. KENT LIVESAY**, 5319 SOUTH MCCOLL ROAD, EDINBURG, TX 78539 in this case numbered **2014DCV2379** on the docket of said court, and styled:

**JORGE GUZMAN**  
**VS**  
**MARCELO MORA, VICTOR PEREZ, VRP TRANSPORATION INC.**

The nature of Plaintiff's demand is fully shown by a true and correct copy of the Plaintiff's Original Petition accompanying this citation and made a part hereof.

The officer executing this writ shall promptly serve the same according to requirements of law, and the mandates thereof, and make due return as the law directs.

Issued and given under my hand and seal of said Court at El Paso, Texas, on this the 5<sup>th</sup> day of August, 2014

CLERK OF THE COURT

**NORMA L. FAVELA**  
District Clerk  
El Paso County Courthouse  
500 E. San Antonio Ave, RM 103  
El Paso, Texas 79901



Attest: NORMA L. FAVELA District Clerk  
El Paso County, Texas

By Susanne Fierro, Deputy  
Susanne Fierro

EL PASO COUNTY  
DISTRICT CLERK  
2014 AUG -5 PM 4:12  
BY Susanne Fierro  
DEPUTY

Rule 106: "-the citation shall be served by the officer delivering to each defendant, in person, a true copy of the citation with the date of delivery endorsed thereon and with a copy of the petition attached thereto."



**SHERIFF'S RETURN**

Came on hand on \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_ o'clock  
 \_\_\_\_ M., and executed in \_\_\_\_\_ County, Texas, by delivering to  
 each of the within-named defendants, in person, a true copy of this Citation, having first endorsed thereon  
 the date of delivery, together with the accompanying true and correct copy of the Plaintiff's Original  
 Petition, at the following times and places, to-wit:

| NAME | MONTH | DATE<br>DAY | YEAR | Hour | TIME<br>Min. | .M. | Place, and Course and Distance<br>From Court House |
|------|-------|-------------|------|------|--------------|-----|--|
|      |       |             |      |      |              |     |  |
|      |       |             |      |      |              |     |  |
|      |       |             |      |      |              |     |  |
|      |       |             |      |      |              |     |  |
|      |       |             |      |      |              |     |  |

And not executed as to the defendant, \_\_\_\_\_

the diligence used in finding said defendant, being \_\_\_\_\_

and the cause of failure to execute this process is: \_\_\_\_\_

and the information received as to the whereabouts of the said defendant, being \_\_\_\_\_

FEES—SERVING \_\_\_\_ cop \_\_\_\_ \$ \_\_\_\_\_ Sheriff  
 \_\_\_\_\_ County, Texas

Total \_\_\_\_\_ \$ \_\_\_\_\_ By \_\_\_\_\_ Deputy

**CERTIFICATE OF DELIVERY**

I do hereby certify that I delivered to \_\_\_\_\_  
 \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_  
 20\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_ m. this copy of this instrument.

\_\_\_\_\_, Sheriff/Agent  
 \_\_\_\_\_ County, Texas  
 By \_\_\_\_\_ Deputy/Agent

SUBSCRIBED AND SWORN TO BEFORE ME ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_.

(SEAL)

\_\_\_\_\_  
 NOTARY PUBLIC, STATE OF TEXAS

## SHERIFF'S RETURN

Came on hand on 12 day of August, 2014, at 5:00 o'clock  
P.M., and executed in El Paso County, Texas, by delivering to  
 each of the within-named defendants, in person, a true copy of this Citation, having first endorsed thereon  
 the date of delivery, together with the accompanying true and correct copy of the Plaintiff's Original  
 Petition, at the following times and places, to-wit:

| NAME  | MONTH    | DATE<br>DAY | YEAR      | TIME<br>Hour Min. .M. | Place, and Course and Distance<br>From Court House        |
|---|----------|-------------|-----------|-----------------------|---|
| <u>Victor Perez by</u><br><u>SUB-SERVING VERONICA</u><br><u>Aguilar as per order signed 2-11-2015</u> | <u>3</u> | <u>02</u>   | <u>15</u> | <u>9:28 AM</u>        | <u>1033 Humble Place #204</u><br><u>El Paso, TX 79915</u> |
|   |          |             |           |                       |   |
|   |          |             |           |                       |   |
|   |          |             |           |                       |   |

And not executed as to the defendant, \_\_\_\_\_

the diligence used in finding said defendant, being \_\_\_\_\_

and the cause of failure to execute this process is: \_\_\_\_\_

and the information received as to the whereabouts of the said defendant, being \_\_\_\_\_

FEES—SERVING \_\_\_\_\_ cop \_\_\_\_\_ \$ \_\_\_\_\_

Total \_\_\_\_\_ \$ \_\_\_\_\_

By \_\_\_\_\_

205 MAR -4 PM  
 EL PASO COUNTY, TEXAS  
 Sheriff  
 County, Texas  
 Deputy

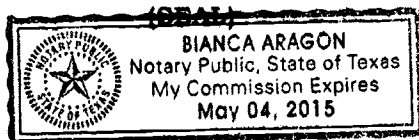
FILED  
 NOTARIAL FAVELA  
 DISTRICT CLERK

## CERTIFICATE OF DELIVERY

I do hereby certify that I delivered to Victor Perez by serving Veronica Aguilar on a Sub-  
service by order signed 2-11-2015 on the 2 day of MARCH,  
 2015, at 9:28 o'clock A.m. this copy of this instrument.

Cynthia Nava Sheriff/Agent  
El Paso County, Texas  
 By Cynthia Nava Deputy/Agent  
304-3453

SUBSCRIBED AND SWORN TO BEFORE ME ON THE 3rd DAY OF MARCH, 2015.



NOTARY PUBLIC, STATE OF TEXAS

## THE STATE OF TEXAS

NOTICE TO DEFENDANT: "You have been sued. You may employ an attorney. If you, or your attorney, do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you."

TO: **VICTOR PEREZ**, who may be served with process at his place of employment at **1033 Humble Place, Suite 204, El Paso, TX 79915-1028** or wherever he/she may be found

Greetings:

You are hereby commanded to appear by filing a written answer to the Plaintiff's Original Petition at or before ten o'clock A.M. of the Monday next after the expiration of twenty days after the date of service of this citation before the Honorable **County Court at Law Number 5**, El Paso County, Texas, at the Court House of said County in El Paso, Texas.

Said Plaintiff's Original Petition was filed in said court on this the 29<sup>th</sup> day of July, 2014, by Attorney at Law **R. KENT LIVESAY**, 5319 SOUTH MCCOLL ROAD, EDINBURG, TX 78539 in this case numbered **2014DCV2379** on the docket of said court, and styled:

**JORGE GUZMAN**  
VS  
**MARCELO MORA, VICTOR PEREZ, VRP TRANSPORATION INC.**

The nature of Plaintiff's demand is fully shown by a true and correct copy of the Plaintiff's Original Petition accompanying this citation and made a part hereof.

The officer executing this writ shall promptly serve the same according to requirements of law, and the mandates thereof, and make due return as the law directs.

Issued and given under my hand and seal of said Court at El Paso, Texas, on this the 5<sup>th</sup> day of August, 2014

CLERK OF THE COURT

**NORMA L. FAVELA**  
District Clerk  
El Paso County Courthouse  
500 E. San Antonio Ave, RM 103  
El Paso, Texas 79901



Attest: NORMA L. FAVELA District Clerk  
El Paso County, Texas

By Susanne Fierro, Deputy  
Susanne Fierro

Rule 106: "the citation shall be served by the officer delivering to each defendant, in person, a true copy of the citation with the date of delivery endorsed thereon and with a copy of the petition attached thereto."

## THE STATE OF TEXAS

**NOTICE TO DEFENDANT:** "You have been sued. You may employ an attorney. If you, or your attorney, do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you."

**TO: VRP TRANSPORATION INC.,** who may be served with process by serving its **Registered Agent Julia Portman at 1033 Humble Place, Suite 204, El Paso TX 79915-1028** or wherever he/she may be found

Greetings:

You are hereby commanded to appear by filing a written answer to the Plaintiff's Original Petition at or before ten o'clock A.M. of the Monday next after the expiration of twenty days after the date of service of this citation before the **Honorable County Court at Law Number 5**, El Paso County, Texas, at the Court House of said County in El Paso, Texas.

Said Plaintiff's Original Petition was filed in said court on this the 29<sup>th</sup> day of July, 2014, by Attorney at Law ,R. KENT LIVESAY, 5319 SOUTH MCCOLL ROAD, EDINBURG, TX 78539 in this case numbered **2014DCV2379** on the docket of said court, and styled:

**JORGE GUZMAN**  
**VS**  
**MARCELO MORA, VICTOR PEREZ, VRP TRANSPORATION INC.**

The nature of Plaintiff's demand is fully shown by a true and correct copy of the Plaintiff's Original Petition accompanying this citation and made a part hereof.

The officer executing this writ shall promptly serve the same according to requirements of law, and the mandates thereof, and make due return as the law directs.

Issued and given under my hand and seal of said Court at El Paso, Texas, on this the 5<sup>th</sup> day of August, 2014

CLERK OF THE COURT

**NORMA L. FAVELA**  
District Clerk  
El Paso County Courthouse  
500 E. San Antonio Ave, RM 103  
El Paso, Texas 79901



Attest: NORMA L. FAVELA District Clerk  
El Paso County, Texas

By Susanne Fierro Deputy  
Susanne Fierro

2014 AUG -5 PM 4:27  
BY Susanne Fierro  
DEPUTY  
CLERK

Rule 106: "the citation shall be served by the officer delivering to each defendant, in person, a true copy of the citation with the date of delivery endorsed thereon and with a copy of the petition attached thereto."

**SHERIFF'S RETURN**

Came on hand on \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M., and executed in \_\_\_\_\_ County, Texas, by delivering to each of the within-named defendants, in person, a true copy of this Citation, having first endorsed thereon the date of delivery, together with the accompanying true and correct copy of the Plaintiff's Original Petition, at the following times and places, to-wit:

| NAME | MONTH | DATE |     | YEAR | TIME |      |    | Place, and Course and Distance<br>From Court House |
|------|-------|------|-----|------|------|------|----|--|
|      |       | DAY  | DAY |      | Hour | Min. | M. |  |
|      |       |      |     |      |      |      |    |  |
|      |       |      |     |      |      |      |    |  |
|      |       |      |     |      |      |      |    |  |
|      |       |      |     |      |      |      |    |  |
|      |       |      |     |      |      |      |    |  |
|      |       |      |     |      |      |      |    |  |

And not executed as to the defendant, \_\_\_\_\_

the diligence used in finding said defendant, being \_\_\_\_\_

and the cause of failure to execute this process is: \_\_\_\_\_

and the information received as to the whereabouts of the said defendant, being \_\_\_\_\_

FEES—SERVING \_\_\_\_\_ cop \_\_\_\_\_ \$ \_\_\_\_\_ Sheriff  
\_\_\_\_\_ County, Texas

Total \_\_\_\_\_ \$ \_\_\_\_\_ By \_\_\_\_\_ Deputy

**CERTIFICATE OF DELIVERY**

I do hereby certify that I delivered to \_\_\_\_\_  
\_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_,  
20\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ m. this copy of this instrument.

\_\_\_\_\_, Sheriff/Agent

\_\_\_\_\_, County, Texas

By \_\_\_\_\_, Deputy/Agent

SUBSCRIBED AND SWORN TO BEFORE ME ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_.

(SEAL)

\_\_\_\_\_  
NOTARY PUBLIC, STATE OF TEXAS

## SHERIFF'S RETURN

Came on hand on 12 day of August, 2014, at 5:00 o'clock  
P.M., and executed in El Paso County, Texas, by delivering to  
 each of the within-named defendants, in person, a true copy of this Citation, having first endorsed thereon  
 the date of delivery, together with the accompanying true and correct copy of the Plaintiff's Original  
 Petition, at the following times and places, to-wit:

| NAME                                      | MONTH    | DATE<br>DAY | YEAR      | TIME<br>Hour Min. | M.        | Place, and Course and Distance<br>From Court House |
|---|----------|-------------|-----------|-------------------|-----------|--|
| <u>VRP Transportation Inc.</u>            | <u>3</u> | <u>2</u>    | <u>15</u> | <u>9:28</u>       | <u>AM</u> | <u>1033 Humble House 204</u>                       |
| <u>Sub-served by order signed 2-11-15</u> |          |             |           |                   |           | <u>El Paso, TX 79915</u>                           |
|   |          |             |           |                   |           |  |
|   |          |             |           |                   |           |  |
|   |          |             |           |                   |           |  |

And not executed as to the defendant, \_\_\_\_\_

the diligence used in finding said defendant, being \_\_\_\_\_

and the cause of failure to execute this process is: \_\_\_\_\_

and the information received as to the whereabouts of the said defendant, being \_\_\_\_\_

FEES—SERVING \_\_\_\_\_ cop \_\_\_\_\_ \$ \_\_\_\_\_

Total \_\_\_\_\_ \$ \_\_\_\_\_ By \_\_\_\_\_

EL PASO COUNTY, TEXAS  
 2015 MAR - 4 PM 2:19  
 Sheriff  
 County, Texas  
 Deputy  
 TILED  
 DOMINIC FAVELA  
 DISTRICT CLERK

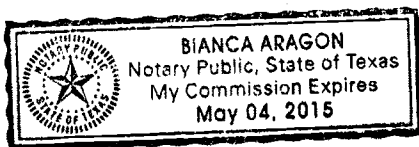
## CERTIFICATE OF DELIVERY

I do hereby certify that I delivered to VRP Transportation Inc. by sub-served  
Veronica Aguilar by order signed 2-11-15 on the 2 day of March  
2015, at 9:28 o'clock A m. this copy of this instrument.

Cynthia Chen, Sheriff/Agent  
El Paso County, Texas  
 By Cynthia NADA, Deputy/Agent  
ECF-3453

SUBSCRIBED AND SWORN TO BEFORE ME ON THE 3rd DAY OF March, 2015.

(SEAL)



NOTARY PUBLIC, STATE OF TEXAS

## THE STATE OF TEXAS

NOTICE TO DEFENDANT: "You have been sued. You may employ an attorney. If you, or your attorney, do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you."

TO: **VRP TRANSPORATION INC.**, who may be served with process by serving its **Registered Agent Julia Portman at 1033 Humble Place, Suite 204, El Paso TX 79915-1028 or wherever he/she may be found**

Greetings:

You are hereby commanded to appear by filing a written answer to the Plaintiff's Original Petition at or before ten o'clock A.M. of the Monday next after the expiration of twenty days after the date of service of this citation before the Honorable **County Court at Law Number 5**, El Paso County, Texas, at the Court House of said County in El Paso, Texas.

Said Plaintiff's Original Petition was filed in said court on this the 29<sup>th</sup> day of July, 2014, by Attorney at Law, **R. KENT LIVESAY**, 5319 SOUTH MCCOLL ROAD, EDINBURG, TX 78539 in this case numbered **2014DCV2379** on the docket of said court, and styled:

**JORGE GUZMAN**  
**VS**  
**MARCELO MORA, VICTOR PEREZ, VRP TRANSPORATION INC.**

The nature of Plaintiff's demand is fully shown by a true and correct copy of the Plaintiff's Original Petition accompanying this citation and made a part hereof.

The officer executing this writ shall promptly serve the same according to requirements of law, and the mandates thereof, and make due return as the law directs.

Issued and given under my hand and seal of said Court at El Paso, Texas, on this the 5<sup>th</sup> day of August, 2014

CLERK OF THE COURT

**NORMA L. FAVELA**  
District Clerk  
El Paso County Courthouse  
500 E. San Antonio Ave, RM 103  
El Paso, Texas 79901



Attest: NORMA L. FAVELA District Clerk  
El Paso County, Texas

By Susanne Fierro, Deputy  
Susanne Fierro

Rule 106: "the citation shall be served by the officer delivering to each defendant, in person, a true copy of the citation with the date of delivery endorsed thereon and with a copy of the petition attached thereto."

FILED  
NORMAL  
DISTRICT

CAUSE NO. 2014-DCV-2379

2015 FEB 11 PM 3:38

JORGE GUZMAN,  
Plaintiff

vs.

MARCELO MORA, VICTOR PEREZ AND  
VRP TRANSPORTATION, INC.,  
Defendants

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IN THE COUNTY COURT

BY

*Josea Aguirre*

AT LAW NO. 5

EL PASO COUNTY, TEXAS

**ORDER FOR SUBSTITUTE SERVICE T.R.C.P. 106 (B)**

On this day, this Court considered the **MOTION FOR SUBSTITUTE SERVICE T. R. C. P. 106 (B)** presented by Plaintiff and the affidavits attached stating the location of the Defendant's usual place of business/abode or other place where the Defendants, **MARCELO MORA, VICTOR PEREZ AND VRP TRANSPORTATION, INC.**, can be found and stating specifically the facts showing that service has been attempted under T.R.C.P. 106 (B) and service at the following locations will be reasonably effective to give the Defendants, notice of this suit:

- 1) **Defendant, Marcelo Mora**  
1033 Humble Place, Suite 204  
El Paso Texas 79915-1028
- 2) **Defendant, Victor Perez**  
1033 Humble Place, Suite 204  
El Paso, Texas 79915-1028
- 3) **Defendant, VRP Transportation Inc.**  
c/o its Registered Agent: Julia Portman  
1033 Humble Place, Suite 204  
El Paso, Texas 79915-1028

**IT IS ACCORDINGLY ORDERED** that an authorized process server/officer that is not a party to this suit nor interested in the outcome shall give the Defendants, **MARCELO MORA, VICTOR PEREZ AND VRP TRANSPORTATION, INC.**, notice of this suit by delivering a true copy of the citation and petition attached, to anyone over 16 years of age at:



- 1) **Defendant, Marcelo Mora**  
1033 Humble Place Suite 204  
El Paso Texas 79915-1028
- 2) **Defendant, Victor Perez**  
1033 Humble Place, Suite 204  
El Paso, Texas 79915-1028
- 3) **Defendant, VRP Transportation Inc.**  
c/o its Registered Agent: Julia Portman  
1033 Humble, Suite 204  
El Paso, Texas 79915-1028

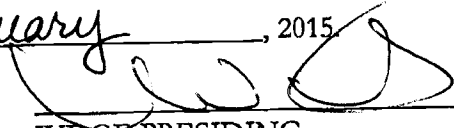
OR

attaching a true copy of the citation and petition securely to the front door/entry way at, or  
affixing to the gate if the property is gated at:

- 1) **Defendant, Marcelo Mora**  
1033 Humble Place Suite 204  
El Paso Texas 79915-1028
- 2) **Defendant, Victor Perez**  
1033 Humble Place, Suite 204  
El Paso, Texas 79915-1028
- 3) **Defendant, VRP Transportation Inc.**  
c/o its Registered Agent: Julia Portman  
1033 Humble, Suite 204  
El Paso, Texas 79915-1028

OR by mailing a copy of the citation and petition via Certified Mail Return Receipt Requested  
which will be reasonable effective to give the Defendant notice of this suit. **IT IS FURTHER  
ORDERED** that the return of the authorized person be endorsed on or attached to the citation, stating  
when and how the citation was served, and to signed by the authorized person/officer, and is to make  
due return in accordance with the Texas Rules of Civil Procedure Rule 107.

SIGNED this 11<sup>th</sup> day of February, 2015.

  
JUDGE PRESIDING

cc: R. Kent Livesay  
The Offices of R. Kent Livesay  
5319 South McColl Road  
Edinburg, Texas 78539  
(956) 686-5776 Telephone  
(956) 686-0050 Facsimile  
[rpena@livesaylawfirm.com](mailto:rpena@livesaylawfirm.com)

## IN THE COUNTY COURT AT LAW NUMBER FIVE

## EL PASO COUNTY, TEXAS

JORGE GUZMAN,

Plaintiff,

v.

MARCELO MORA, VICTOR PEREZ and  
VRP TRANSPORTATION, INC.,

Defendants.

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Cause No.: 2014-DCV2379

**CERTIFICATE OF WRITTEN DISCOVERY**

TO THE HONORABLE JUDGE OF SAID COURT:


COMES NOW MARCELO MORA, a Defendant in the above-entitled and numbered cause, and submits his Certificate of Written Discovery regarding the following written discovery requests/responses:

1. Defendant's Request for Disclosure to Plaintiff served 3/18/15;
2. Defendant's Interrogatories to Plaintiff served 3/18/15;
3. Defendant's Request for Production to Plaintiff served 3/18/15.

**WHEREFORE PREMISES CONSIDERED,** Defendant respectfully prays that the Court and all parties take notice of the above and foregoing Certificate, and service of the above-referenced discovery requests/responses, and that the Court grant Defendant such other and further relief, general or special, legal or equitable, to which Defendant may be justly entitled.

Respectfully submitted,

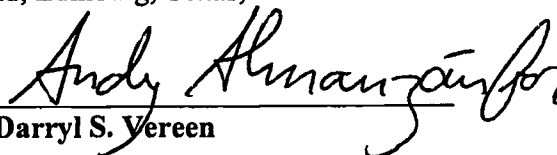
**MOUNCE, GREEN, MYERS,  
SAFI, PAXSON & GALATZAN, P.C.**  
P. O. Drawer 1977  
El Paso, Texas 79950-1977  
Phone: (915) 532-2000  
Telefax: (915) 541-1597  
E-Mail: [vereen@mgmsg.com](mailto:vereen@mgmsg.com)

By:   
**Darryl S. Vereen**  
State Bar ID No. 00785148

Attorneys for Defendant Marcelo Mora

**CERTIFICATE OF SERVICE**

In compliance with Texas Rule of Civil Procedure 21a (e), I, **Darryl S. Vereen**, hereby certify that on the 18 day of March, 2015, a true and correct copy of the foregoing document filed electronically with the clerk of the court in accordance with Texas Rule of Civil Procedure 21a (f)(1) is served on the following parties or attorney(s): R. Kent Livesay, Esq., [rpena@livesaylawfirm.com](mailto:rpena@livesaylawfirm.com), 5319 South McColl Road, Edinburg, Texas, 78539.

  
**Darryl S. Vereen**

## IN THE COUNTY COURT AT LAW NUMBER FIVE

## EL PASO COUNTY, TEXAS

JORGE GUZMAN,

Plaintiff,

v.

MARCELO MORA, VICTOR PEREZ and  
VRP TRANSPORTATION, INC.,

Defendants.

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Cause No.: 2014-DCV2379

**DEFENDANT MARCELO MORA'S ORIGINAL ANSWER**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW MARCELO MORA, a Defendant in the above-entitled and captioned cause, and submits his Original Answer to Plaintiff's Original Petition, and respectfully shows the court as follows:

## I.

Pursuant to Tex. R. Civ. P. 92, Defendant enters his general denial as to Plaintiff's petition and demands strict proof thereof.

## II.

Defendant would show that his insurance carrier has been declared impaired by the Texas Commissioner of Insurance, as that term is defined and understood by law. Defendant requests that Plaintiff exhaust his rights under all other insurance policies, and invokes all credits, offsets and limitations on liability set forth in Tex. Ins. Code Ann. §§462.251, 462.252, 462.253, *et. seq.*

III.

Defendant would show that all or part of Plaintiff's claims are barred by Tex. Civ. Prac. & Rem. Code Ann. §41.0105 since Plaintiff may only recover medical expenses actually paid or incurred.

IV.

Defendant would show that all or part of Plaintiff's claims are barred by Tex. Civ. Prac. & Rem. Code Ann. §18.091, since any evidence of wages or economic damages must be presented in an after-tax format, and Defendant requests the appropriate jury instructions in this regard.

V.

Defendant would show that the occurrence in question was an unavoidable accident, as that term is defined and understood by law.

VI.

Defendant would show that Plaintiff has failed to mitigate his damages, if any, as that term is defined and understood by law.

VII.

Defendant requests trial by jury and reserves the right to amend.

**WHEREFORE, PREMISES CONSIDERED,** Defendant prays that upon final hearing that he be discharged and allowed to go hence without day and with his costs and that the Court grant Defendant such other and further relief, general or special, legal or equitable, to which Defendant may be justly entitled.

Respectfully submitted,

**MOUNCE, GREEN, MYERS,  
SAFI, PAXSON & GALATZAN, P.C.**  
P. O. Drawer 1977  
El Paso, Texas 79950-1977  
Phone: (915) 532-2000  
Telefax: (915) 541-1597  
E-Mail: [vereen@mgmsg.com](mailto:vereen@mgmsg.com)

By: 

**Darryl S. Vereen**  
State Bar ID No. 00785148

Attorneys for Defendant Marcelo Mora

**CERTIFICATE OF SERVICE**

In compliance with Texas Rule of Civil Procedure 21a (e), I, **Darryl S. Vereen**, hereby certify that on the 18 day of March, 2015, a true and correct copy of the foregoing document filed electronically with the clerk of the court in accordance with Texas Rule of Civil Procedure 21a (f)(1) is served on the following parties or attorney(s): R. Kent Livesay, Esq., [rpena@livesaylawfirm.com](mailto:rpena@livesaylawfirm.com), 5319 South McColl Road, Edinburg, Texas, 78539.

  
**Darryl S. Vereen**

## IN THE COUNTY COURT AT LAW NUMBER FIVE

## EL PASO COUNTY, TEXAS

JORGE GUZMAN,

Plaintiff,

v.

MARCELO MORA, VICTOR PEREZ and  
VRP TRANSPORTATION, INC.,

Defendants.

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Cause No.: 2014-DCV2379

**DEFENDANT VRP TRANSPORTATION, INC.'S ORIGINAL ANSWER**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW VRP TRANSPORTATION, INC., a Defendant in the above-entitled and captioned cause, and submits its Original Answer to Plaintiff's pleadings, and respectfully shows the court as follows:

## I.

Pursuant to Tex. R. Civ. P. 92, Defendant enters its general denial as to Plaintiff's petition and demands strict proof thereof.

## II.

Pursuant to Tex. R. Civ. P. 93, Defendant denies that it is liable in the capacity in which it has been sued. Defendant specifically denies any employer/employee relationship with Defendant Marcelo Mora, or any other relationship that would impose vicarious liability for Defendant Mora's alleged negligence.



III.

Defendant would show that its insurance carrier has been declared impaired by the Texas Commissioner of Insurance, as that term is defined and understood by law. Defendant requests that Plaintiff exhaust his rights under all other insurance policies, and invoke all credits, offsets and limitations on damages and liability set forth in Tex. Ins. Code Ann. §§462.251, 462.252, 462.253, *et. seq.*

IV.

Defendant would show that all or part of Plaintiff's claims are barred by Tex. Civ. Prac. & Rem. Code Ann. §41.0105 since Plaintiff may only recover medical expenses actually paid or incurred.

V.

Defendant would show that all or part of Plaintiff's claims are barred by Tex. Civ. Prac. & Rem. Code Ann. §18.091, since any evidence of wages or economic damages must be presented in an after-tax format, and Defendant requests the appropriate jury instructions in this regard.

VI.

Defendant would show that the occurrence in question was an unavoidable accident, as that term is defined and understood by law.

VII.

Defendant would show that Plaintiff has failed to mitigate his damages, if any, as that term is defined and understood by law.

VIII.

Defendant requests trial by jury and reserves the right to amend.

**WHEREFORE, PREMISES CONSIDERED,** Defendant prays that upon final hearing that it be discharged and allowed to go hence without day and with its costs and that the Court grant Defendant such other and further relief, general or special, legal or equitable, to which Defendant may be justly entitled.

Respectfully submitted,

**MOUNCE, GREEN, MYERS,  
SAFI, PAXSON & GALATZAN, P.C.**  
P. O. Drawer 1977  
El Paso, Texas 79950-1977  
Phone: (915) 532-2000  
Telefax: (915) 541-1597  
E-Mail: [vereen@mgmsg.com](mailto:vereen@mgmsg.com)

By: *Andy Almanzan for*  
**Darryl S. Vereen**  
State Bar ID No. 00785148

Attorneys for Defendant VRP Transportation, Inc.

**CERTIFICATE OF SERVICE**

In compliance with Texas Rule of Civil Procedure 21a (e), I, **Darryl S. Vereen**, hereby certify that on the 20 day of March, 2015, a true and correct copy of the foregoing document filed electronically with the clerk of the court in accordance with Texas Rule of Civil Procedure 21a (f)(1) is served on the following parties or attorney(s): R. Kent Livesay, Esq., [rpena@livesaylawfirm.com](mailto:rpena@livesaylawfirm.com), 5319 South McColl Road, Edinburg, Texas, 78539.

*Andy Almanzan for*  
**Darryl S. Vereen**

**VERIFICATION**

**VRP TRANSPORTATION, INC.**

By: \_\_\_\_\_

**Victor Reyes Perez**  
**Authorized Representative**

STATE OF TEXAS )

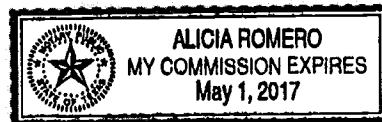
COUNTY OF EL PASO )

BEFORE ME, the undersigned Notary Public, on this day personally appeared **VICTOR REYES PEREZ**, who, being by me duly sworn, upon oath deposed and said that he is an authorized representative of VRP Transportation, Inc., he has read the above and foregoing and that the information contained in the Rule 93 denial, is within his personal knowledge and is true and correct.

SUBSCRIBED AND SWORN TO before me on the 19th day of March 2015, to certify which, witness my hand and seal of office.



NOTARY PUBLIC in and for  
The State of Texas



## IN THE COUNTY COURT AT LAW NUMBER FIVE

## EL PASO COUNTY, TEXAS

JORGE GUZMAN,

Plaintiff,

v.

MARCELO MORA, VICTOR PEREZ and  
VRP TRANSPORTATION, INC.,

Defendants.

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Cause No.: 2014-DCV2379

**DEFENDANT VICTOR REYES PEREZ' ORIGINAL ANSWER**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW VICTOR REYES PEREZ, a Defendant in the above-entitled and captioned cause, and submits his Original Answer to Plaintiff's Original Petition, and respectfully shows the court as follows:

## I.

Pursuant to Tex. R. Civ. P. 92, Defendant enters his general denial as to Plaintiff's petition and demands strict proof thereof.

## II.

Pursuant to Tex. R. Civ. P. 93, Defendant denies that he is liable in the capacity in which he has been sued, and denies that he was operating the vehicle in question at the time of this incident. Defendant further denies any employer/employee relationship with Defendant Marcelo Mora, or any other legal relationship that would impose vicarious liability upon him for Defendant Mora's alleged negligence. Defendant further denies that he was the entrustor of the vehicle in question. Defendant further denies that he is a citizen of the United States, or the State of Texas, to the extent that has been alleged.

III.

Defendant would show that his insurance carrier has been declared impaired by the Texas Commissioner of Insurance, as that term is defined and understood by law. Defendant requests that Plaintiff exhaust his rights under all other insurance policies, and invoke all credits, offsets and limitations on liability set forth in Tex. Ins. Code Ann. §§462.251, 462.252, 462.253, *et. seq.*

IV.

Defendant would show that all or part of Plaintiff's claims are barred by Tex. Civ. Prac. & Rem. Code Ann. §41.0105 since Plaintiff may only recover medical expenses actually paid or incurred.

V.

Defendant would show that all or part of Plaintiff's claims are barred by Tex. Civ. Prac. & Rem. Code Ann. §18.091, since any evidence of wages or economic damages must be presented in an after-tax format, and Defendant requests the appropriate jury instructions in this regard.

VI.

Defendant would show that the occurrence in question was an unavoidable accident, as that term is defined and understood by law.

VII.

Defendant would show that Plaintiff has failed to mitigate his damages, if any, as that term is defined and understood by law.

VIII.

Defendant requests trial by jury and reserves the right to amend.

**WHEREFORE, PREMISES CONSIDERED,** Defendant prays that upon final hearing that he be discharged and allowed to go hence without day and with his costs and that the Court grant Defendant such other and further relief, general or special, legal or equitable, to which Defendant may be justly entitled.

Respectfully submitted,

**MOUNCE, GREEN, MYERS,  
SAFI, PAXSON & GALATZAN, P.C.**  
P. O. Drawer 1977  
El Paso, Texas 79950-1977  
Phone: (915) 532-2000  
Telefax: (915) 541-1597  
E-Mail: [vereen@mgmsg.com](mailto:vereen@mgmsg.com)

By:

  
**Darryl S. Vereen**  
State Bar ID No. 00785148

Attorneys for Defendant Victor Reyes Perez

**CERTIFICATE OF SERVICE**

In compliance with Texas Rule of Civil Procedure 21a (e), I, **Darryl S. Vereen**, hereby certify that on the 20 day of March, 2015, a true and correct copy of the foregoing document filed electronically with the clerk of the court in accordance with Texas Rule of Civil Procedure 21a (f)(1) is served on the following parties or attorney(s): R. Kent Livesay, Esq., [rpena@livesaylawfirm.com](mailto:rpena@livesaylawfirm.com), 5319 South McColl Road, Edinburg, Texas, 78539.

  
**Darryl S. Vereen**

**VERIFICATION**

  
\_\_\_\_\_  
**Victor Reyes Perez**

STATE OF TEXAS

)

COUNTY OF EL PASO

)

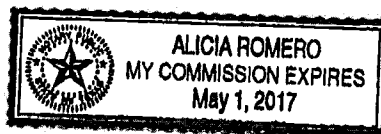
)

BEFORE ME, the undersigned Notary Public, on this day personally appeared **VICTOR REYES PEREZ**, who, being by me duly sworn, upon oath depose and said that he has read the above and foregoing and that the information contained in the Rule 93 denial, is within his personal knowledge and is true and correct.

SUBSCRIBED AND SWORN TO before me on the 19th day of MARCH  
2015, to certify which, witness my hand and seal of office.

  
\_\_\_\_\_

NOTARY PUBLIC in and for  
The State of Texas



El Paso County - County Court at Law 5

Filed 2/6/2015 3:58:48 PM

Norma L. Favela  
 District Clerk  
 El Paso County  
 2014DCV2379

**CAUSE NO. 2014-DCV-2379**

JORGE GUZMAN,  
 Plaintiff

vs.

MARCELO MORA, VICTOR PEREZ AND  
 VRP TRANSPORTATION, INC.,  
 Defendants

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IN THE COUNTY COURT

AT LAW NO. 5

EL PASO COUNTY, TEXAS

**PLAINTIFF'S FIRST AMENDED MOTION FOR  
 SUBSTITUTE SERVICE T. R. C. P. 106 (B)**

**COMES NOW**, the Plaintiff, **JORGE GUZMAN**, in the above numbered and entitled cause  
 and would show that the:

**PLAINTIFF'S ORIGINAL PETITION; CITATION**

on the below named defendants:

- 1) **Defendant, Marcelo Mora**  
 1033 Humble Place Suite 204  
 El Paso Texas 79915-1028
- 2) **Defendant, Victor Perez**  
 1033 Humble Place, Suite 204  
 El Paso, Texas 79915-1028
- 3) **Defendant, VRP Transportation Inc.**  
 c/o its Registered Agent: Julia Portman  
 1033 Humble, Suite 204  
 El Paso, Texas 79915-1028

has not been delivered because the authorized process server, **CYNTHIA NAVA**, has been unable to  
 locate the Defendants, **MARCELO MORA, VICTOR PEREZ AND VRP TRANSPORTATION,**  
**INC.**, at their business address in the said county, as set forth above, in the Affidavits attached hereto  
 as **EXHIBITS "A", "B" and "C"** and made a part of this motion for all purposes.

**WHEREFORE**, Plaintiff, **JORGE GUZMAN**, prays that service of process on the  
 Defendants be authorized by:



delivering a true copy of the citation and petition attached, to anyone over 18 years of age at:

1033 Humble Place Suite 204  
El Paso Texas 79915-1028

**OR**

attaching a true copy of the citation and petition securely to the front door/entry way at, or affixing to the gate if the property is gated at:

1033 Humble Place Suite 204  
El Paso Texas 79915-1028

**OR**

By mailing a copy of the Citation and Petition via First Class Mail and Certified Mail Return Receipt Requested which Plaintiff believes will be reasonably effective to give the Defendant notice of this suit.

Respectfully submitted,

**LAW OFFICES OF R. KENT LIVESAY, P.C.**

5319 South McColl Road

Edinburg, Texas 78539

(956) 686-5776 Telephone

(956) 686-0050 Telecopier

[rpena@livesaylawfirm.com](mailto:rpena@livesaylawfirm.com)

By: /s/ R. Kent Livesay

R. Kent Livesay

Texas State Bar No. 00790057

**ATTORNEY FOR PLAINTIFF**

## EL PASO COUNTY COURT AT LAW NUMBER FIVE

JORGE GUZMAN § CAUSE NO. 2014DCV2379  
Plaintiff,  
Vs. §  
MARCELO MORA, VICTOR PEREZ  
AND VRP TRANSPORTATION, INC. §

## AFFIDAVIT OF ATTEMPTS

I am and was on the dates herein mentioned over the age of eighteen years and not a party to this action or interested in the outcome of the case.

Came to my hand on September 8, 2014 at 5:00 pm the following documents:

CITATION with PLAINTIFF'S ORIGINAL PETITION and NOT EXECUTED to the within named documents to: MARCELO MORA  
AT: 1033 Humble Place, Ste. 204, El Paso, TX 79915

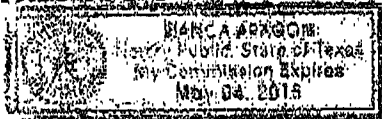
ATTEMPTED at the following places and time at defendant's usual place of abode or place of business:

DATE: September 9, 2014 TIME: 10:25 am PLACE: 1033 Humble Pl., Ste. 204, El Paso, TX  
RESULTS: Not in, as per receptionist he is very hard to find. Left business card.  
DATE: September 12, 2014 TIME: 1:00 pm PLACE: Same as above.  
RESULTS: Not in.  
DATE: September 16, 2014 TIME: 4:45 pm PLACE: Same as above.  
RESULTS: Not in. Left another business card.

My attempts to serve the Respondent have been unsuccessful.

I declare under penalty of perjury under the laws of the State of Texas that the foregoing is true and correct.

SUBSCRIBE AND SWORN TO BEFORE ME THE 30 DAY OF September 2014  
EL PASO COUNTY STATE OF TEXAS



(SEAL)

NOTARY PUBLIC, STATE OF TEXAS

Cynthia Nava SCH# 3453  
Private Process Server



## EL PASO COUNTY COURT AT LAW NUMBER FIVE

JORGE GUZMAN § CAUSE NO. 2014DCV2379  
 Plaintiff,  
 Vs. §  
 MARCELO MORA, VICTOR PEREZ  
 AND VRP TRANSPORTATION, INC. §

## AFFIDAVIT OF ATTEMPTS

I am and was on the dates herein mentioned over the age of eighteen years and not a party to this action or interested in the outcome of the case.

Came to my hand on September 8, 2014 at 5:00 pm the following documents:

CITATION with PLAINTIFF'S ORIGINAL PETITION and NOT EXECUTED to the within named documents to: VICTOR PEREZ  
 AT: 1033 Humble Place, Ste. 204, El Paso, TX 79915

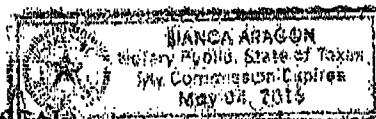
ATTEMPTED at the following places and time at defendant's usual place of abode or place of business:

DATE: September 9, 2014 TIME: 10:25 am PLACE: 1033 Humble Pl., Ste. 204, El Paso, TX  
 RESULTS: Not in, as per receptionist he is very hard to find. Left business card.  
 DATE: September 12, 2014 TIME: 1:00 pm PLACE: Same as above.  
 RESULTS: Not in.  
 DATE: September 16, 2014 TIME: 4:45 pm PLACE: Same as above.  
 RESULTS: Not in. Left another business card.

My attempts to serve the Respondent have been unsuccessful.

I declare under penalty of perjury under the laws of the State of Texas that the foregoing is true and correct.

SUBSCRIBE AND SWORN TO BEFORE ME THE 30 DAY OF September 2014  
 EL PASO COUNTY STATE OF TEXAS



NOTARY PUBLIC, STATE OF TEXAS

*Cynthia Nava*  
 Cynthia Nava SCH# 3453  
 Private Process Server



## EL PASO COUNTY COURT AT LAW NUMBER FIVE

JORGE GUZMAN

Plaintiff,

§ CAUSE NO. 2014DCV2379

Vs.

MARCELO MORA, VICTOR PEREZ  
AND VRF TRANSPORTATION, INC. §

## AFFIDAVIT OF ATTEMPTS

I am and was on the dates herein mentioned over the age of eighteen years and not a party to this action or interested in the outcome of the case.

Came to my hand on September 8, 2014 at 5:00 pm the following documents:

CITATION with PLAINTIFF'S ORIGINAL PETITION and NOT EXECUTED to the within named documents to: VRF TRANSPORTATION INC., by serving Registered Agent JULIA PORTMAN.

AT: 1033 Humble Place, Ste. 204, El Paso, TX 79915

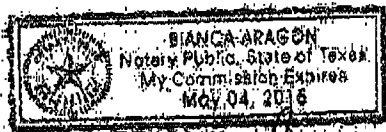
ATTEMPTED at the following places and time at defendant's usual place of abode or place of business:

DATE: September 9, 2014 TIME: 10:25 am PLACE: 1033 Humble Pl., Ste. 204, El Paso, TX  
RESULTS: Julia Portman no longer works for VRF Transportation, Inc.

My attempts to serve the Respondent have been unsuccessful.

I declare under penalty of perjury under the laws of the State of Texas that the foregoing is true and correct.

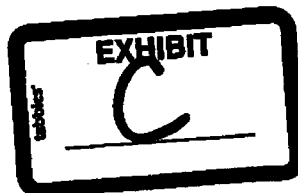
SUBSCRIBE AND SWORN TO BEFORE ME THE 30 DAY OF September 2014  
EL PASO COUNTY STATE OF TEXAS



(SEAL)

NOTARY PUBLIC, STATE OF TEXAS

*Cynthia Nava*  
Cynthia Nava SCH# 9453  
Private Process Server



CAUSE NO. 2014-DCV-2379

JORGE GUZMAN,  
Plaintiff

vs.

MARCELO MORA, VICTOR PEREZ AND  
VRP TRANSPORTATION, INC.,  
Defendants

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IN THE COUNTY COURT

AT LAW NO. 5

EL PASO COUNTY, TEXAS

**ORDER FOR SUBSTITUTE SERVICE T.R.C.P. 106 (B)**

On this day, this Court considered the **MOTION FOR SUBSTITUTE SERVICE T. R. C. P. 106 (B)** presented by Plaintiff and the affidavits attached stating the location of the Defendant's usual place of business/abode or other place where the Defendants, **MARCELO MORA, VICTOR PEREZ AND VRP TRANSPORTATION, INC.**, can be found and stating specifically the facts showing that service has been attempted under T.R.C.P. 106 (B) and service at the following locations will be reasonably effective to give the Defendants, notice of this suit:

- 1) **Defendant, Marcelo Mora**  
1033 Humble Place, Suite 204  
El Paso Texas 79915-1028
- 2) **Defendant, Victor Perez**  
1033 Humble Place, Suite 204  
El Paso, Texas 79915-1028
- 3) **Defendant, VRP Transportation Inc.**  
c/o its Registered Agent: Julia Portman  
1033 Humble Place, Suite 204  
El Paso, Texas 79915-1028

**IT IS ACCORDINGLY ORDERED** that an authorized process server/officer that is not a party to this suit nor interested in the outcome shall give the Defendants, **MARCELO MORA, VICTOR PEREZ AND VRP TRANSPORTATION, INC.**, notice of this suit by delivering a true copy of the citation and petition attached, to anyone over 16 years of age at:

- 1) **Defendant, Marcelo Mora**  
1033 Humble Place Suite 204  
El Paso Texas 79915-1028
- 2) **Defendant, Victor Perez**  
1033 Humble Place, Suite 204  
El Paso, Texas 79915-1028
- 3) **Defendant, VRP Transportation Inc.**  
c/o its Registered Agent: Julia Portman  
1033 Humble, Suite 204  
El Paso, Texas 79915-1028

**OR**

attaching a true copy of the citation and petition securely to the front door/entry way at, or affixing to the gate if the property is gated at:

- 1) **Defendant, Marcelo Mora**  
1033 Humble Place Suite 204  
El Paso Texas 79915-1028
- 2) **Defendant, Victor Perez**  
1033 Humble Place, Suite 204  
El Paso, Texas 79915-1028
- 3) **Defendant, VRP Transportation Inc.**  
c/o its Registered Agent: Julia Portman  
1033 Humble, Suite 204  
El Paso, Texas 79915-1028

OR by mailing a copy of the citation and petition via Certified Mail Return Receipt Requested which will be reasonable effective to give the Defendant notice of this suit. **IT IS FURTHER ORDERED** that the return of the authorized person be endorsed on or attached to the citation, stating when and how the citation was served, and to signed by the authorized person/officer, and is to make due return in accordance with the Texas Rules of Civil Procedure Rule 107.

SIGNED this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
JUDGE PRESIDING

cc: R. Kent Livesay  
The Offices of R. Kent Livesay  
5319 South McColl Road  
Edinburg, Texas 78539  
(956) 686-5776 Telephone  
(956) 686-0050 Facsimile  
[rpena@livesaylawfirm.com](mailto:rpena@livesaylawfirm.com)

## THE STATE OF TEXAS

NOTICE TO DEFENDANT: "You have been sued. You may employ an attorney. If you, or your attorney, do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you."

TO: **MARCELO MORA**, who may be served with process at his place of employment at **1033 Humble Place, Suite 204, El Paso, TX 79915-1028** or wherever he/she may be found

Greetings:

You are hereby commanded to appear by filing a written answer to the Plaintiff's Original Petition at or before ten o'clock A.M. of the Monday next after the expiration of twenty days after the date of service of this citation before the Honorable **County Court at Law Number 5**, El Paso County, Texas, at the Court House of said County in El Paso, Texas.

Said Plaintiff's Original Petition was filed in said court on this the 29<sup>th</sup> day of July, 2014, by Attorney at Law, R. KENT LIVESAY, 5319 SOUTH MCCOLL ROAD, EDINBURG, TX 78539 in this case numbered **2014DCV2379** on the docket of said court, and styled:

**JORGE GUZMAN**  
**VS**  
**MARCELO MORA, VICTOR PEREZ, VRP TRANSPORTATION INC.**

The nature of Plaintiff's demand is fully shown by a true and correct copy of the Plaintiff's Original Petition accompanying this citation and made a part hereof.

The officer executing this writ shall promptly serve the same according to requirements of law, and the mandates thereof, and make due return as the law directs.

Issued and given under my hand and seal of said Court at El Paso, Texas, on this the 6<sup>th</sup> day of August, 2014

CLERK OF THE COURT

**NORMA L. FAVELA**  
District Clerk  
El Paso County Courthouse  
500 E. San Antonio Ave, RM 103  
El Paso, Texas 79901



Attest: NORMA L. FAVELA District Clerk  
El Paso County, Texas

By Susanne Fierro Deputy  
Susanne Fierro

EL PASO COUNTY  
DISTRICT COURT  
2014 AUG -5 PM 4:05  
BY DEPUTY

Rule 106: "the citation shall be served by the officer delivering to each defendant, in person, a true copy of the citation with the date of delivery endorsed thereon and with a copy of the petition attached thereto."



**SHERIFF'S RETURN**

Came on hand on \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_ o'clock  
 \_\_\_\_M., and executed in \_\_\_\_\_ County, Texas, by delivering to  
 each of the within-named defendants, in person, a true copy of this Citation, having first endorsed thereon  
 the date of delivery, together with the accompanying true and correct copy of the Plaintiff's Original  
 Petition, at the following times and places, to-wit:

| NAME | DATE  |     |      | TIME |      |     | Place, and Course and Distance<br>From Court House |
|------|-------|-----|------|------|------|-----|--|
|      | MONTH | DAY | YEAR | Hour | Min. | .M. |  |
|      |       |     |      |      |      |     |  |
|      |       |     |      |      |      |     |  |
|      |       |     |      |      |      |     |  |
|      |       |     |      |      |      |     |  |
|      |       |     |      |      |      |     |  |
|      |       |     |      |      |      |     |  |

And not executed as to the defendant, \_\_\_\_\_

the diligence used in finding said defendant, being \_\_\_\_\_

and the cause of failure to execute this process is: \_\_\_\_\_

and the information received as to the whereabouts of the said defendant, being \_\_\_\_\_

FEES—SERVING \_\_\_\_ cop \_\_\_\_ \$ \_\_\_\_\_ Sheriff  
 \_\_\_\_\_ County, Texas

Total \_\_\_\_\_ \$ \_\_\_\_\_ By \_\_\_\_\_ Deputy

**CERTIFICATE OF DELIVERY**

I do hereby certify that I delivered to \_\_\_\_\_,

\_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_,

20\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_m. this copy of this instrument.

\_\_\_\_\_, Sheriff/Agent

\_\_\_\_\_ County, Texas

By \_\_\_\_\_, Deputy/Agent

**SUBSCRIBED AND SWORN TO BEFORE ME ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_.**

(SEAL)

\_\_\_\_\_  
**NOTARY PUBLIC, STATE OF TEXAS**

El Paso County - County Court at Law 5

Filed 2/6/2015 10:38:55 AM

Norma L. Favela  
 District Clerk  
 El Paso County  
 2014DCV2379

**CAUSE NO. 2014-DCV-2379**

JORGE GUZMAN,  
 Plaintiff

vs.

MARCELO MORA, VICTOR PEREZ AND  
 VRP TRANSPORTATION, INC.,  
 Defendants

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IN THE COUNTY COURT

AT LAW NO. 5

EL PASO COUNTY, TEXAS

**MOTION FOR SUBSTITUTED SERVICE T. R. C. P. 106 (B)**

**COMES NOW**, the Plaintiff, **JORGE GUZMAN**, in the above numbered and entitled cause  
 and would show that the:

**PLAINTIFF'S ORIGINAL PETITION; CITATION**

on the below named defendants:

- 1) **Defendant, Marcelo Mora**  
 1033 Humble Place Suite 204  
 El Paso Texas 79915-1028
- 2) **Defendant, Victor Perez**  
 1033 Humble Place, Suite 204  
 El Paso, Texas 79915-1028
- 3) **Defendant, VRP Transportation Inc.**  
 c/o its Registered Agent: Julia Portman  
 1033 Humble, Suite 204  
 El Paso, Texas 79915-1028

has not been delivered because the authorized process server, **CYNTHIA NAVA**, has been unable to locate the Defendants, **MARCELO MORA, VICTOR PEREZ AND VRP TRANSPORTATION, INC.**, at their business address in the said county, as set forth above, in the Affidavits attached hereto as **EXHIBIT "A"** and made a part of this motion for all purposes.

**WHEREFORE**, Plaintiff, **JORGE GUZMAN**, prays that service of process on the Defendants be authorized by:

delivering a true copy of the citation and petition attached, to anyone over 18 years of age at:

1033 Humble Place Suite 204  
El Paso Texas 79915-1028

**OR**

attaching a true copy of the citation and petition securely to the front door/entry way at, or affixing to the gate if the property is gated at:

1033 Humble Place Suite 204  
El Paso Texas 79915-1028

**OR**

By mailing a copy of the Citation and Petition via First Class Mail and Certified Mail Return Receipt Requested which Plaintiff believes will be reasonably effective to give the Defendant notice of this suit.

Respectfully submitted,

**LAW OFFICES OF R. KENT LIVESAY, P.C.**

5319 South McColl Road  
Edinburg, Texas 78539  
(956) 686-5776 Telephone  
(956) 686-0050 Telecopier  
[rpena@livesaylawfirm.com](mailto:rpena@livesaylawfirm.com)

By: /s/ R. Kent Livesay  
R. Kent Livesay  
Texas State Bar No. 00790057

**ATTORNEY FOR PLAINTIFF**

**CAUSE NO. 2014-DCV-2379**

JORGE GUZMAN,  
Plaintiff

vs.

MARCELO MORA, VICTOR PEREZ AND  
VRP TRANSPORTATION, INC.,  
Defendants

§ IN THE COUNTY COURT  
§  
§  
§  
§ AT LAW NO. 5  
§  
§ EL PASO COUNTY, TEXAS

**ORDER FOR SUBSTITUTE SERVICE T.R.C.P. 106 (B)**

On this day, this Court considered the **MOTION FOR SUBSTITUTED SERVICE T. R. C. P. 106 (B)** presented by Plaintiff and the affidavits attached stating the location of the Defendant's usual place of business/abode or other place where the Defendants, **MARCELO MORA, VICTOR PEREZ AND VRP TRANSPORTATION, INC.**, can be found and stating specifically the facts showing that service has been attempted under T.R.C.P. 106 (B) and service at the following locations will be reasonably effective to give the Defendants, notice of this suit:

- 1) **Defendant, Marcelo Mora**  
1033 Humble Place, Suite 204  
El Paso Texas 79915-1028
- 2) **Defendant, Victor Perez**  
1033 Humble Place, Suite 204  
El Paso, Texas 79915-1028
- 3) **Defendant, VRP Transportation Inc.**  
c/o its Registered Agent: Julia Portman  
1033 Humble Place, Suite 204  
El Paso, Texas 79915-1028

**IT IS ACCORDINGLY ORDERED** that an authorized process server/officer that is not a party to this suit nor interested in the outcome shall give the Defendants, **MARCELO MORA, VICTOR PEREZ AND VRP TRANSPORTATION, INC.**, notice of this suit by delivering a true copy of the citation and petition attached, to anyone over 16 years of age at:

- 1) **Defendant, Marcelo Mora**  
1033 Humble Place Suite 204  
El Paso Texas 79915-1028
- 2) **Defendant, Victor Perez**  
1033 Humble Place, Suite 204  
El Paso, Texas 79915-1028
- 3) **Defendant, VRP Transportation Inc.**  
c/o its Registered Agent: Julia Portman  
1033 Humble, Suite 204  
El Paso, Texas 79915-1028

**OR**

attaching a true copy of the citation and petition securely to the front door/entry way at, or affixing to the gate if the property is gated at:

- 1) **Defendant, Marcelo Mora**  
1033 Humble Place Suite 204  
El Paso Texas 79915-1028
- 2) **Defendant, Victor Perez**  
1033 Humble Place, Suite 204  
El Paso, Texas 79915-1028
- 3) **Defendant, VRP Transportation Inc.**  
c/o its Registered Agent: Julia Portman  
1033 Humble, Suite 204  
El Paso, Texas 79915-1028

OR by mailing a copy of the citation and petition via Certified Mail Return Receipt Requested which will be reasonable effective to give the Defendant notice of this suit. **IT IS FURTHER ORDERED** that the return of the authorized person be endorsed on or attached to the citation, stating when and how the citation was served, and to signed by the authorized person/officer, and is to make due return in accordance with the Texas Rules of Civil Procedure Rule 107.

SIGNED this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
JUDGE PRESIDING

cc: R. Kent Livesay  
The Offices of R. Kent Livesay  
5319 South McColl Road  
Edinburg, Texas 78539  
(956) 686-5776 Telephone  
(956) 686-0050 Facsimile  
[rpena@livesaylawfirm.com](mailto:rpena@livesaylawfirm.com)

IN THE COUNTY COURT

44

AT LAW NO. 5

EL PASO COUNTY, TEXAS

**MOTION FOR SUBSTITUTED SERVICE T. R. C. P. 106 (B)**

**COMES NOW**, the Plaintiff **JORGE GUZMAN**, in the above numbered and entitled cause

## PLAINTIFF'S ORIGINAL PETITION; CITATION

**on the below named defendants:**

- 1) **Defendant, Marcelo Mora**  
1033 Humble Place Suite 204  
El Paso Texas 79915-1028
- 2) **Defendant, Victor Perez**  
1033 Humble Place, Suite 204  
El Paso, Texas 79915-1028
- 3) **Defendant, VRP Transportation Inc.**  
c/o its Registered Agent: Julia Portman  
1033 Humble, Suite 204  
El Paso, Texas 79915-1028

has not been delivered because the authorized process server, CYNTHIA NAVA, has been unable to locate the Defendants, MARCELO MORA, VICTOR PEREZ AND VRP TRANSPORTATION, INC., at their business address in the said county, as set forth above, in the Affidavits attached hereto as EXHIBIT "A" and made a part of this motion for all purposes.

**WHEREFORE, Plaintiff, JORGE GUZMAN**, prays that service of process on the Defendants be authorized by:

EL PASO COUNTY COURT AT LAW NUMBER FIVE

JORGE GUZMAN § CAUSE NO. 2014DCV2379  
 Plaintiff,  
 Vs.  
 MARCELO MORA, VICTOR PEREZ §  
 AND VRP TRANSPORTATION, INC. §

AFFIDAVIT OF ATTEMPTS

I am and was on the dates herein mentioned over the age of eighteen years and not a party to this action or interested in the outcome of the case.

Came to my hand on September 8, 2014 at 5:00 pm the following documents:

CITATION with PLAINTIFF'S ORIGINAL PETITION and NOT EXECUTED to the within named documents to: MARCELO MORA  
 AT: 1033 Humble Place, Ste. 204, El Paso, TX 79915

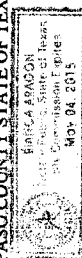
ATTEMPTED at the following places and time at defendant's usual place of abode or place of business:

DATE: September 9, 2014 TIME: 10:25 am PLACE: 1033 Humble Pl., Ste. 204, El Paso, TX  
 RESULTS: Not in. as per receptionist he is very hard to find. Left business card.  
 DATE: September 12, 2014 TIME: 1:00 pm PLACE: Same as above.  
 RESULTS: Not in.  
 DATE: September 16, 2014 TIME: 4:45 pm PLACE: Same as above.  
 RESULTS: Not in. Left another business card.

My attempts to serve the Respondent have been unsuccessful.

I declare under penalty of perjury under the laws of the State of Texas that the foregoing is true and correct.

SUBSCRIBE AND SWORN TO BEFORE ME THE 30 DAY OF September 2014  
 EL PASO COUNTY STATE OF TEXAS



Cynthia Nava SCH# 3453  
 Private Process Server

NOTARY PUBLIC, STATE OF TEXAS





EL PASO COUNTY COURT AT LAW NUMBER FIVE

JORGE GUZMAN § CAUSE NO. 2014DCV2379  
 Plaintiff,  
 Vs. §  
 MARCELO MORA, VICTOR PEREZ  
 AND VRP TRANSPORTATION, INC. §

AFFIDAVIT OF ATTEMPTS

I am and was on the dates herein mentioned over the age of eighteen years and not a party to this action or interested in the outcome of the case.

Came to my hand on September 8, 2014 at 5:00 pm the following documents:

CITATION with PLAINTIFF'S ORIGINAL PETITION and NOT EXECUTED to the within named documents to: VICTOR PEREZ  
 AT: 1033 Humble Place, Ste. 204, El Paso, TX 79915

ATTEMPTED at the following places and time at defendant's usual place of abode or place of business:

DATE: September 9, 2014 TIME: 10:25 am PLACE: 1033 Humble Pl., Ste. 204, El Paso, TX  
 RESULTS: Not in, as per receptionist he is very hard to find. Left business card.  
 DATE: September 12, 2014 TIME: 1:00 pm PLACE: Same as above.  
 RESULTS: Not in.  
 DATE: September 16, 2014 TIME: 4:45 pm PLACE: Same as above.  
 RESULTS: Not in. Left another business card.

My attempts to serve the Respondent have been unsuccessful.

I declare under penalty of perjury under the laws of the State of Texas that the foregoing is true and correct.

SUBSCRIBE AND SWORN TO BEFORE ME THE 30 DAY OF September, 2014  
 EL PASO COUNTY STATE OF TEXAS

  
 Cynthia Nava SCH# 3453  
 Private Process Server

NOTARY PUBLIC, STATE OF TEXAS

EL PASO COUNTY COURT AT LAW NUMBER FIVE

JORGE GUZMAN § CAUSE NO. 2014DCV2379  
Plaintiff,

Vs. §  
MARCELO MORA, VICTOR PEREZ  
AND VRP TRANSPORTATION, INC. §

AFFIDAVIT OF ATTEMPTS

I am and was on the dates herein mentioned over the age of eighteen years and not a party to this action or interested in the outcome of the case.

Came to my hand on September 8, 2014 at 5:00 pm the following documents:

CITATION with PLAINTIFF'S ORIGINAL PETITION and NOT EXECUTED to the within named documents to: VRP TRANSPORTATION INC., by serving Registered Agent JULIA PORTMAN.  
AT: 1033 Humble Place, Ste. 204, El Paso, TX 79915

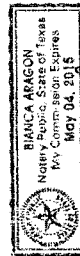
ATTEMPTED at the following places and time at defendant's usual place of abode or place of business:

DATE: September 9, 2014 TIME: 10:25 am PLACE: 1033 Humble Pl., Ste. 204, El Paso, TX  
RESULTS: Julia Portman no longer works for VRP Transportation, Inc.

My attempts to serve the Respondent have been unsuccessful.

I declare under penalty of perjury under the laws of the State of Texas that the foregoing is true and correct.

SUBSCRIBE AND SWORN TO BEFORE ME THE 30 DAY OF September 2014  
EL PASO COUNTY STATE OF TEXAS



*Cynthia Nava*  
Cynthia Nava SCH# 3453  
Private Process Server

NOTARY PUBLIC, STATE OF TEXAS

CAUSE NO. 2014-DCV-2379

JORGE GUZMAN,  
Plaintiff

vs.

MARCELO MORA, VICTOR PEREZ AND  
VRP TRANSPORTATION, INC.,  
Defendants

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IN THE COUNTY COURT 2:44

AT LAW NO. 5

EL PASO COUNTY, TEXAS

2015 FEB 4 PM 2:44  
BY *Jessica Guiler*

**ORDER FOR SUBSTITUTE SERVICE T.R.C.P. 106 (B)**

On this day, this Court considered the **MOTION FOR SUBSTITUTED SERVICE T. R. C. P. 106 (B)** presented by Plaintiff and the affidavits attached stating the location of the Defendant's usual place of business/abode or other place where the Defendants, **MARCELO MORA, VICTOR PEREZ AND VRP TRANSPORTATION, INC.**, can be found and stating specifically the facts showing that service has been attempted under T.R.C.P. 106 (B) and service at the following locations will be reasonably effective to give the Defendants, notice of this suit:

- 1) **Defendant, Marcelo Mora**  
1033 Humble Place, Suite 204  
El Paso Texas 79915-1028
- 2) **Defendant, Victor Perez**  
1033 Humble Place, Suite 204  
El Paso, Texas 79915-1028
- 3) **Defendant, VRP Transportation Inc.**  
c/o its Registered Agent: Julia Portman  
1033 Humble Place, Suite 204  
El Paso, Texas 79915-1028

**IT IS ACCORDINGLY ORDERED** that an authorized process server/officer that is not a party to this suit nor interested in the outcome shall give the Defendants, **MARCELO MORA, VICTOR PEREZ AND VRP TRANSPORTATION, INC.**, notice of this suit by delivering a true copy of the citation and petition attached, to anyone over 16 years of age at:

- 1) **Defendant, Marcelo Mora**  
1033 Humble Place Suite 204  
El Paso Texas 79915-1028
- 2) **Defendant, Victor Perez**  
1033 Humble Place, Suite 204  
El Paso, Texas 79915-1028
- 3) **Defendant, VRP Transportation Inc.**  
c/o its Registered Agent: Julia Portman  
1033 Humble, Suite 204  
El Paso, Texas 79915-1028

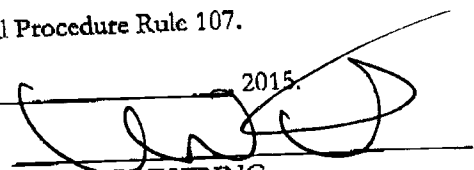
OR

attaching a true copy of the citation and petition securely to the front door/entry way at, or affixing to the gate if the property is gated at:

- 1) **Defendant, Marcelo Mora**  
1033 Humble Place Suite 204  
El Paso Texas 79915-1028
- 2) **Defendant, Victor Perez**  
1033 Humble Place, Suite 204  
El Paso, Texas 79915-1028
- 3) **Defendant, VRP Transportation Inc.**  
c/o its Registered Agent: Julia Portman  
1033 Humble, Suite 204  
El Paso, Texas 79915-1028

OR by mailing a copy of the citation and petition via Certified Mail Return Receipt Requested which will be reasonable effective to give the Defendant notice of this suit. **IT IS FURTHER ORDERED** that the return of the authorized person be endorsed on or attached to the citation, stating when and how the citation was served, and to signed by the authorized person/officer, and is to make due return in accordance with the Texas Rules of Civil Procedure Rule 107.

SIGNED this 4 day of Feb 2015.

  
JUDGE PRESIDING

cc: R. Kent Livesay  
The Offices of R. Kent Livesay  
5319 South McColl Road  
Edinburg, Texas 78539  
(956) 686-5776 Telephone  
(956) 686-0050 Facsimile  
[rpna@livesaylawfirm.com](mailto:rpna@livesaylawfirm.com)



THE LAW OFFICES OF R. KENT LIVESAY, P. C.  
5319 S. MCCOLL RD.  
EDINBURG, TEXAS 78539  
PH: (956) 686-5776 \* (888) 202-1157  
FAX: (956) 686-0050 \* (817) 394-1280

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February 3, 2015

**Via Facsimile Transmission**  
**(915) 543-3861 Only**

Ms. Patricia Bustamante  
County Court at Law No. 5  
El Paso County Courthouse  
500 E. San Antonio, Suite 806  
El Paso, Texas 79901

**Re: Cause No. 2014-DCV-2379; Jorge Guzman v. Marcelo Mora, Victor Perez,  
and VRP Transportation, Inc.**

Dear Ms. Bustamante:

As per our telephone conversation, enclosed herewith please find a copy of the Order for Substitution of Service. Please present the Order to the Judge for his consideration and signature.

Your assistance in this matter is appreciated.

Sincerely,

Raul Peña  
Legal Assistant

enc.

RECEIVED  
MARCELO MORA  
DISTRICT COURT

CAUSE NO. 2014-DCV-2379

2015 FEB 11 PM 3:38

JORGE GUZMAN,  
Plaintiff

vs.

MARCELO MORA, VICTOR PEREZ AND  
VRP TRANSPORTATION, INC.,  
Defendants

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IN THE COUNTY COURT

BY *Jorge Guzman*  
DEPUTY

AT LAW NO. 5

EL PASO COUNTY, TEXAS

**ORDER FOR SUBSTITUTE SERVICE T.R.C.P. 106 (B)**

On this day, this Court considered the **MOTION FOR SUBSTITUTE SERVICE T. R. C. P. 106 (B)** presented by Plaintiff and the affidavits attached stating the location of the Defendant's usual place of business/abode or other place where the Defendants, **MARCELO MORA, VICTOR PEREZ AND VRP TRANSPORTATION, INC.**, can be found and stating specifically the facts showing that service has been attempted under T.R.C.P. 106 (B) and service at the following locations will be reasonably effective to give the Defendants, notice of this suit:

- 1) **Defendant, Marcelo Mora**  
1033 Humble Place, Suite 204  
El Paso Texas 79915-1028
- 2) **Defendant, Victor Perez**  
1033 Humble Place, Suite 204  
El Paso, Texas 79915-1028
- 3) **Defendant, VRP Transportation Inc.**  
c/o its Registered Agent: Julia Portman  
1033 Humble Place, Suite 204  
El Paso, Texas 79915-1028

**IT IS ACCORDINGLY ORDERED** that an authorized process server/officer that is not a party to this suit nor interested in the outcome shall give the Defendants, **MARCELO MORA, VICTOR PEREZ AND VRP TRANSPORTATION, INC.**, notice of this suit by delivering a true copy of the citation and petition attached, to anyone over 16 years of age at:

- 1) **Defendant, Marcelo Mora**  
1033 Humble Place Suite 204  
El Paso Texas 79915-1028
- 2) **Defendant, Victor Perez**  
1033 Humble Place, Suite 204  
El Paso, Texas 79915-1028
- 3) **Defendant, VRP Transportation Inc.**  
c/o its Registered Agent: Julia Portman  
1033 Humble, Suite 204  
El Paso, Texas 79915-1028

OR

attaching a true copy of the citation and petition securely to the front door/entry way at, or affixing to the gate if the property is gated at:

- 1) **Defendant, Marcelo Mora**  
1033 Humble Place Suite 204  
El Paso Texas 79915-1028
- 2) **Defendant, Victor Perez**  
1033 Humble Place, Suite 204  
El Paso, Texas 79915-1028
- 3) **Defendant, VRP Transportation Inc.**  
c/o its Registered Agent: Julia Portman  
1033 Humble, Suite 204  
El Paso, Texas 79915-1028

OR by mailing a copy of the citation and petition via Certified Mail Return Receipt Requested which will be reasonable effective to give the Defendant notice of this suit. **IT IS FURTHER ORDERED** that the return of the authorized person be endorsed on or attached to the citation, stating when and how the citation was served, and to signed by the authorized person/officer, and is to make due return in accordance with the Texas Rules of Civil Procedure Rule 107.

SIGNED this 11<sup>th</sup> day of February, 2015

  
JUDGE PRESIDING



cc: R. Kent Livesay  
The Offices of R. Kent Livesay  
5319 South McColl Road  
Edinburg, Texas 78539  
(956) 686-5776 Telephone  
(956) 686-0050 Facsimile  
[rpena@livesaylawfirm.com](mailto:rpena@livesaylawfirm.com)

IN THE COUNTY COURT AT LAW NUMBER FIVE

EL PASO COUNTY, TEXAS

JORGE GUZMAN,

Plaintiff,

v.

MARCELO MORA, VICTOR PEREZ and  
VRP TRANSPORTATION, INC.,

Defendants.

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Cause No.: 2014-DCV2379

**DEFENDANTS' NOTICE OF REMOVAL TO FEDERAL COURT**

TO THE HONORABLE JUDGE OF SAID COURT:

COME NOW MARCELO MORA, VICTOR PEREZ, and VRP TRANSPORTATION, Inc., Defendants in the above-entitled and captioned cause, and submit their Notice of Removal to Federal Court and show:

**I.**

Defendants have removed the above-entitled and captioned cause to the United States District Court, Western District of Texas, El Paso Division.

**WHEREFORE, PREMISES CONSIDERED,** Defendants respectfully pray that the Court, all parties and all attorneys take notice of the above and foregoing removal, and that no further action be taken in this matter, absent remand.

Respectfully submitted,

**MOUNCE, GREEN, MYERS,  
SAFI, PAXSON & GALATZAN, P.C.**

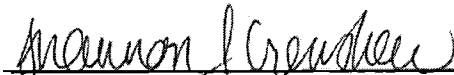
P. O. Drawer 1977

El Paso, Texas 79950-1977

Phone: (915) 532-2000

Telefax: (915) 541-1597

E-Mail: [vereen@mgmsg.com](mailto:vereen@mgmsg.com)

By:   
**Darryl S. Vereen**  
State Bar ID No. 00785148

Attorneys for Defendant VRP Transportation, Inc.

**CERTIFICATE OF SERVICE**

In compliance with Texas Rule of Civil Procedure 21a (e), I, **Darryl S. Vereen**, hereby certify that on the 1 day of April, 2015, a true and correct copy of the foregoing document filed electronically with the clerk of the court in accordance with Texas Rule of Civil Procedure 21a (f)(1) is served on the following parties or attorney(s): R. Kent Livesay, Esq., [rpena@livesaylawfirm.com](mailto:rpena@livesaylawfirm.com), 5319 South McColl Road, Edinburg, Texas, 78539.

  
**Darryl S. Vereen**